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C O N F I D E N T I A L SECTION 01 OF 02 NAIROBI 004878

SIPDIS

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SUBJECT: PRESIDENT KIBAKI SACKS CABINET, KEEPS PARLIAMENT OUT

REF: NAIROBI 4838

Classified By: Political Counselor Michael J. Fitzpatrick for reasons 1
.4 (b,d)

1. (C) SUMMARY: After conceding November 22 the defeat of his proposed new constitution in the previous day's national referendum, President Kibaki moved swiftly to assert his leadership. He dismissed his entire (and entirely disfunctional) cabinet November 23; seeking to ward off preparations for a vote of no-confidence, he indefinitely suspended November 24 the return of Parliament (planned for next week). Echoing pre-referendum talk, opponents of the draft called for immediate general elections, which remains among Kibaki's own options. Alternatively, the president could take steps to mend political divisions as he seeks to create his new cabinet over the next two weeks. Assembling a team to continue the constitutional review process will be one, but not the only, issue to be hammered out. Kibaki is at the crossroads of his tenure; he has to decide if he will: seek new elections; or, try to go about business as usual; or, govern for all Kenyans and rechart a course for the national reform agenda for the remainder (two years?) of his administration. END SUMMARY.

A GOVERNMENT OF TWO

2. (SBU) Barely 24 hours after conceding the defeat of the draft constitution he had backed (reftel), President Kibaki announced November 23 the dismissal of his entire cabinet. In a terse televised statement, Kibaki said he took this constitutionally-authorized step and will soon appoint new Ministers and Assistant Ministers "to make (the government) more cohesive and better able to serve the people of Kenya." Leaving in place his Vice President, and the ministries' Permanent Secretaries (senior-most career civil servants, who insiders tell us are likely the next to go after new ministers are named), the president added that he planned to "reconstitute" his government within two weeks. Following renewed calls by his "Orange" (anti-draft) critics for snap elections, Kibaki backed up his dissolution of government by suspending Parliament November 24. The National Assembly had been set to return to session on November 29. The president, constitutionally empowered to set the schedule for parliament, did not give a timeframe for the legislature's return, but after the planned two-week session, the next assembly was not to be until February or March 2006. He may constitutionally delay the sitting of parliament for as long as one year since its last meeting.

SNAP TO IT?

3. (C) Kibaki's actions were quickly met by calls from "Orange" leaders for immediate general elections, which had also circulated prior to the November 21 referendum. Speaking to diplomats on November 25, anti-draft constitution former Planning Minister Professor Anyang Nyong'o cited new elections as one of the President's options, but did not offer his opinion on the wisdom of doing so. Constitutionally, had the president dissolved, and not just prorogued, parliament, general elections for Parliament (and thus the President, as well) would be due within three months.

KIBAKI'S OPTIONS

4. (C) The defeat of the draft constitution presents Kibaki with both the greatest challenge and opportunity of his presidency. Kibaki has three options for what he can do next, for the constitution, and for government. He could, as those opposed to him are calling for, announce general elections now, well before the required late 2007 vote. Alternatively, he could leave all MPs in place, and look to build a new government, starting with a new cabinet and a team to continue the constitutional reform process. With respect to the cabinet, he could go one of two ways: either reach out to the rebels in his (now-dissolved) cabinet and to the formal opposition in a gesture of unification, or pack his new cabinet with "Yes" (pro-draft constitution) men and women. In doing the latter, Kibaki would be pursuing his third option: to go about business as usual. Kibaki's current predicament is an opportunity for him to demonstrate

real leadership by looking to mend political divisions, reenergize the government's reform agenda (anti-corruption agenda) and deliver a new constitution, as promised.

15. (C) Even if inclined to reach out, the President's ability to do so is limited by how committed the "Orange" leadership is to working with Kibaki. They clearly see him as weakened by the referendum defeat, and thus seek to press their advantage. The Orange team itself has yet to articulate its plan for next steps, beyond calls for fresh elections. One Nyanza Province MP told Poloff November 23 that they were just getting together to discuss the way forward. One key indicator will be the November 26 prayer and thanks-giving rally planned for Nairobi, during which "Orange" leaders are likely to address their willingness to re-enter the government, their conditions for doing so and their calls for new elections.

16. (SBU) Members of parliament who spoke to diplomats November 25 espoused creating a government that brings differing views together. Nobel Laureate and now-former assistant minister Wangari Maathai (who had declared herself neutral in the "Banana-Orange" debate) said that to rebuild trust among political leaders, Kibaki needed to revisit the 2003 power-sharing memorandum of understanding that built the NARC coalition. (The MOU was soon ignored, however, and the coalition has riven by splits ever since.) Any new government cannot be stable, she cautioned, without addressing the issue of the memorandum. "Orange" leader Professor Nyong'o further suggested Kibaki should look to repair divisions by appealing to a "transitional government of national unity." Nyeri MP Mutahi Kagwe noted that "sober minds" ought to prevail in creating a unified government. The MPs concurred that thus far the President's advisers had misguided him.

COMMENT: PRESIDENT AT A CROSSROADS

17. (C) The referendum result and Kibaki's actions against the cabinet and parliament present challenges to both the president and the opposition "Orange" leaders. But the greater onus remains on Kibaki. Kenyans are exhausted by the just-concluded 3-month referendum campaign. The public is not hankering just now for new elections. (Indeed, opposition calls for new elections may simply be a pressure tactic.) But Kenyans do want leadership and governance -- attributes virtually non-existent for many months as the country's political class has been consumed by the constitutional debate. That debate will not fade entirely; Kenyans still want a new constitution -- just not the one they decisively shot down this week. The President must now find a way to return the Kenyan government to the business of governance. Kibaki has bought himself time by postponing parliament and forestalling a possible vote of no confidence. He now has the opportunity to reassemble a majority coalition and show himself to be a competent and flexible leader -- one who has heard, and will now heed, the public's call. In the absence of that, Kenyans may indeed welcome the prospect of going to the polls again. But thus far, the vast majority of Kenyans remain willing to give him another chance to succeed.

BELLAMY